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RUEATRS/DEPT OF TREASURY WASHDC  
RUEHKL/AMEMBASSY KUALA LUMPUR 2445  
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UNCLAS SECTION 01 OF 03 JAKARTA 000175

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E.O. 12598: N/A

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SUBJECT: TIFA DIALOGUE HIGHLIGHTS TRADE AND INVESTMENT CHALLENGES

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11. (SBU) SUMMARY: On January 22, Assistant United States Trade Representative Barbara Weisel met with Government of Indonesia (GOI) officials to discuss investment and intellectual property (IP) issues under the U.S.-Indonesia Trade and Investment Framework Agreement (TIFA). Weisel expressed concerns over languishing U.S.-Indonesian trade relations and offered suggestions to rejuvenate the relationship. GOI officials responded that they welcomed ideas, but presented few of their own. End Summary.

I Want to Hold Your Hand  
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12. (SBU) AUSTR Weisel met with Special Assistant to the Minister of Trade for International Trade Cooperation Halida Miljani to discuss the need to develop positive momentum on trade and investment issues. Weisel described the current dialogue on bilateral trade issues as lacking. She compared it unfavorably to U.S. TIFA dialogues with other ASEAN countries and shared examples of substantial U.S. trade cooperation with Vietnam and Cambodia. She argued that the limited U.S. trade engagement does not "do justice" to overall U.S.-Indonesian relations and recommended both sides identify mutual areas of interest to advance the relationship. Weisel offered several ideas, including opening an exploratory dialogue on a Bilateral Investment Treaty (BIT) and updating Indonesia's OPIC agreement. She also suggested tailored proposals targeting specific business sectors.

I'm Happy Just to Dance with You  
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13. (SBU) Halida agreed in principle on the need to rejuvenate trade relations, but offered few suggestions on how to move forward. She cited U.S.-Indonesian agreements on textiles and illegal logging as good examples of cooperation and evidence of progress in trade relations. She explained that the GOI is focused on domestic economic priorities, particularly price stabilization of agricultural products. She also proposed creating a bilateral dialogue to consider ideas. (Weisel responded that any initiative can be launched under the existing TIFA.) Halida suggested that the U.S. propose ideas for trade initiatives and the GOI would consider

them internally before deciding how to proceed. She also requested increased capacity building assistance, but did not specify in what areas.

#### The Long and Winding Road

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¶4. (SBU) The GOI arranged an investment working group meeting led by Investment Coordinating Board (BKPM) Deputy Chairman Hidayat Suralaga. AUSTR Weisel raised concerns from the business community, including a persistent pattern of investment disputes and recurring issues with Indonesia's Investment Law. She argued that the cumulative effect has been a negative perception of Indonesia by the U.S. investment community. Suralaga responded that GOI is aware of business sector concerns and affirmed GOI commitment to address investment issues on a case-by-case basis. He was unresponsive, however, to suggestions that GOI develop internal mechanisms to resolve investment issues systematically. He also asked the U.S. to forward specific examples of U.S. companies adversely affected by the Investment Law to BKPM.

#### How Do You Do It?

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¶5. (SBU) AUSTR Weisel asked about the recent changes to Indonesia's negative foreign investment list and the status of the implementing regulations to the 2007 Investment law. She also asked about the process for considering and implementing future changes to the negative list. Suralaga responded that a review is planned for every 3 years. Weisel referenced public remarks by Trade Minister Mari Pangestu suggesting the list was "still open for more review and revisions." Suralaga conceded that there will be opportunities for revisions before three years. He identified transportation as a possible sector for review, but explained that the GOI is waiting for Parliament to first pass a transportation bill.

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#### If You've Got Trouble

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¶6. (SBU) Weisel asked about the status of the GOI's National Team for the Promotion of Exports and Investment (PEPI). PEPI was instrumental in drafting the implementing regulations to the investment law and recommending revisions to the negative list. In addition, PEPI's structure, with Minister-chaired working groups reporting directly to the Coordinating Minister for Economic Affairs, facilitated expedited issuance of a Presidential Decree. Lastly, PEPI officials had offered to help mediate investor disputes. Suralaga could not confirm whether PEPI will be institutionalized to serve as the prime coordinating mechanism for investment policy, or whether it will be used strictly on an ad hoc basis to address regulations and amendments to the negative list as needed. He suggested that investment disputes be brought to the attention of BKPM Chairman Lutfi first and that he will refer investors to individual ministries (or to PEPI) as appropriate.

#### Here Comes the Sun

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¶7. (SBU) Suralaga announced that the GOI is ready to begin exploratory discussions on a BIT, but will need to coordinate internally before committing to a specific date. Hidayat also noted that Indonesia is in the process of finalizing BIT negotiations with Canada, France and Belgium. He confirmed that BKPM will have the lead in BIT discussions. Suralaga provided no indication, however, of Indonesia's willingness to update its OPIC agreement. Weisel promised that the U.S. would follow up with him over the next few weeks to schedule a digital video conference (DVC).

#### With a Little Help from My Friends

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¶8. (SBU) The GOI organized an intellectual property working group meeting jointly led by Halida and the Director General for IPR (DG

IPR) Andy Sommeng. Halida presented GOI's 2008 IPR action plan which included public outreach, increased training and education, improved law enforcement and more effective coordination among institutions and ministries. Halida announced GOI's intention to draft a "National Intellectual Property Policy" to coordinate the work of the IPR National Task Force.

Paperback Writer  
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¶9. (SBU) DG IPR Andy Sommeng noted that his office has finished drafting amendments on patent, copyright and industrial design law that will soon be submitted to Parliament. USTR Director of Intellectual Property Rachel Bae expressed hope that the amendments will complete Indonesia's adoption of legal standards consistent with the WTO-administered Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement. Bae also raised a number of specific questions related to Indonesia's action plan. Halida requested that, because of time constraints, USTR submit the questions in writing.

While My Guitar Gently Weeps  
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¶10. (SBU) Inter-agency rivalries and lack of coordination continue to bedevil Indonesia's investment policy. In a meeting with Embassy officials a week before USTR's visit, Deputy Minister for International Economic Cooperation at the Coordinating Ministry for Economic Affairs Mahendra Siregar signaled that the GOI was open to initiating an exploratory dialogue on the BIT. He also suggested the GOI would consider incorporating an update of Indonesia's OPIC agreement in the latter stages of BIT negotiations. However that assessment does not appear to reflect a consensus among participants of the investment working group. We believe a strengthened and empowered PEPI could be a key stakeholder for coordinating investment policy and promoting reform. However, as with any coordinating body in Indonesia, PEPI's success may pose a threat to vested bureaucratic interests and as such raise questions over its

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future. END COMMENT

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